

JAN - 2 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. VN-2011-1

11 **COURTNEY KENTON BRODEUR**

12 1362 Balboa Street
13 San Luis Obsipo, CA 93405

14 Vocational Nurse License No. VN 246612

15 Respondent.

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about December 15, 2009, the Board of Vocational Nursing and Psychiatric
23 Technicians ("Board") issued Vocational Nurse License No. VN 246612 to Courtney Kenton
24 Brodeur ("Respondent"). The Vocational Nurse License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on May 31, 2013, unless renewed.

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1 **JURISDICTION AND STATUTORY PROVISIONS**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise
4 indicated.

5 4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the
6 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
7 action during the period within which the license may be renewed, restored, reissued or
8 reinstated. Pursuant to section 2892.1, the Board may renew an expired license at any time within
9 four years after the expiration.

10 5. Section 490 of the Code states, in pertinent part:

11 “(a) In addition to any other action that a board is permitted to take
12 against a licensee, a board may suspend or revoke a license on the ground that the
13 licensee has been convicted of a crime, if the crime is substantially related to the
14 qualifications, functions, or duties of the business or profession for which the license
15 was issued.

16 (b) Notwithstanding any other provision of law, a board may exercise
17 any authority to discipline a licensee for conviction of a crime that is independent of
18 the authority granted under subdivision (a) only if the crime is substantially related to
19 the qualifications, functions, or duties of the business or profession for which the
20 licensee's license was issued.

21 (c) A conviction within the meaning of this section means a plea or
22 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
23 a board is permitted to take following the establishment of a conviction may be taken
24 when the time for appeal has elapsed, or the judgment of conviction has been
25 affirmed on appeal, or when an order granting probation is made suspending the
26 imposition of sentence, irrespective of a subsequent order under the provisions of
27 Section 1203.4 of the Penal Code.”

28 6. Section 2878 of the Code states, in pertinent part:

“The board may suspend or revoke a license issued under this chapter for
any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

...

(d) Violating or attempting to violate, directly or indirectly, or assisting in
or abetting the violating of, or conspiring to violate any provision or term of this
chapter.

...

1 (f) Conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensed vocational nurse, in which event the record of the
3 conviction shall be conclusive evidence of the conviction.”

4 7. Section 2878.5 of the Code states, in pertinent part:

5 “In addition to other acts constituting unprofessional conduct within the
6 meaning of this chapter, it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

8 ...

9 (b) Use any controlled substance as defined in Division 10 of the Health
10 and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic
11 beverages, to an extent or in a manner dangerous or injurious to himself or herself,
12 any other person, or the public, or to the extent that the use impairs his or her ability
13 to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving possession of any
15 narcotic or dangerous drug, or the prescription, consumption, or self-administration of
16 any of the substances described in subdivisions (a) and (b) of this section, in which
17 event the record of the conviction is conclusive evidence thereof.

18 (d) Be committed or confined by a court of competent jurisdiction for
19 intemperate use of or addiction to the use of any of the substances described in
20 subdivisions (a) and (b) of this section, in which event the court order of commitment
21 or confinement is prima facie evidence of that commitment or confinement.”

22 **REGULATORY PROVISIONS**

23 8. California Code of Regulations, title 16, section 2521 states, in pertinent part:

24 “For the purposes of denial, suspension, or revocation of a license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and
26 Professions Code, a crime or act shall be considered substantially related to the
27 qualifications, functions, or duties of a licensed vocational nurse if to a substantial
28 degree it evidences present or potential unfitness of a licensed vocational nurse to
perform the functions authorized by his license in a manner consistent with the public
health, safety, or welfare. Such crimes or acts shall include but not be limited to those
involving the following:

...
29

30 (c) Violating or attempting to violate, directly or indirectly, or assisting
31 in or abetting the violation of, or conspiring to violate any provision or term of
32 Chapter 6.5, Division 2 of the Code....”

33 9. California Code of Regulations, title 16, section 2518.6 states, in pertinent part:

34 “(b) A licensed vocational nurse shall adhere to standards of the
35 profession and shall incorporate ethical and behavioral standards of professional
36 practice which include but are not limited to the following:

37 (4) Abstaining from chemical/substance abuse; and

38 ...

1 (c) A violation of this section constitutes unprofessional conduct for
2 purposes of initiating disciplinary action.”

3 **COST RECOVERY**

4 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
5 law judge to direct a licentiate found to have committed a violation or violations of the licensing
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7 case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime)**

10 11. Respondent is subject to disciplinary action under section 490 and section 2878,
11 subdivision and (f) of the Code in conjunction with California Code of Regulations, title 16,
12 section 2521, in that Respondent has been convicted of a crime substantially related to the
13 qualifications, functions and duties of a licensed vocational nurse, as follows:

14 12. On or about August 1, 2011, Respondent pled nolo contendere to and was convicted
15 of one misdemeanor count of violating Vehicle Code section 23152(a) [driving under the
16 influence of alcohol or drugs] in the criminal proceedings entitled *The People of the State of*
17 *California v. Courtney Kenton Brodeur* (Super. Ct. of California, County of San Luis Obispo,
18 2011, No. M000462683). As part of the plea, Respondent admitted violating Vehicle Code
19 section 23152(b) [driving with a blood alcohol level of 0.08% or higher]. The court ordered
20 Respondent to serve 20 days in jail and placed her on probation for 3 years, with terms and
21 conditions. As part of probation, Respondent was required to complete a second offender driving
22 under the influence program. The circumstances underlying the criminal conviction are that on or
23 about June 30, 2011, a City of Atascadero Police Department officer observed Respondent’s
24 vehicle pull out of a parking lot in front of another vehicle. Upon contact with Respondent the
25 officer observed Respondent’s slow, deliberate movements and slow, slurred speech. When
26 Respondent exited the vehicle, the officer observed Respondent to be unbalanced. Respondent
27 told the officer that he had one glass of wine at a movie theater just prior to driving his vehicle. A
28 blood test revealed 0.15% Blood Alcohol Concentration.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Licensing Chapter)**

3 17. Respondent is subject to disciplinary action under section 2878, subdivision (d) of the
4 Code in that Respondent violated provisions of the Vocational Nursing Practice Act. The
5 violations are described in more particularity in paragraphs 11 through 16 above, inclusive and
6 hereby incorporated by reference.

7 **DISCIPLINARY CONSIDERATIONS**

8 18. To determine the degree of discipline, Complainant alleges, as follows:

9 19. On or about November 17, 2009, the Board sent a letter to Respondent indicating that
10 his conviction is substantially related to the vocational nurse license and constitutes grounds for
11 denial of his license. However, the letter also indicates that the Board will not pursue any
12 disciplinary action against Respondent based upon the fact that he is complying with the
13 conditions of his sentencing. The letter warns that future substantiated reports that he engaged in
14 similar behavior or otherwise violated the law may result in disciplinary action against his license.

15 20. The circumstances underlying the letter are that on or about November 19, 2007,
16 Respondent pled nolo contendere to and was convicted of one misdemeanor count of violating
17 Vehicle Code section 23152(b) [driving with a blood alcohol level of 0.08% or higher] in the
18 criminal proceedings entitled *The People of the State of California v. Courtney Kenton Brodeur*
19 (Super. Ct. San Luis Obispo County, 2007, No. M407091). The Court sentenced Respondent to
20 10 days in county jail and placed Respondent on three years probation, with terms and conditions.
21 As part of probation, the court ordered Respondent to enroll and complete the First Offender
22 Alcohol Program. The circumstances underlying the conviction are that on or about July 24,
23 2007, Morro Bay Police Department officers were dispatched to a single motorcycle traffic
24 collision. Upon contact with Respondent, the responding officer observed the moderate odor of
25 alcoholic beverage emanating from his breath, slow, slurred speech and saw that his eyes were
26 red and bloodshot. A Preliminary Alcohol Screening Test revealed 0.179% and 0.172% Blood
27 Alcohol Content.

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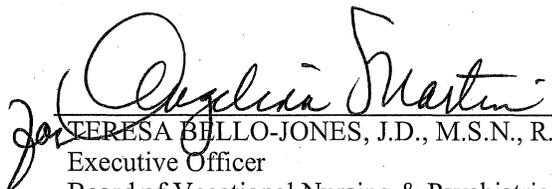
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Vocational Nurse License No. VN 246612, issued to Courtney Kenton Brodeur;
2. Ordering Courtney Kenton Brodeur to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: January 2, 2013


TERESA BILLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing & Psychiatric Technicians
State of California
Complainant